

Review of August 2, 2020 Mill Hollow Incident

Background and Purpose

1. On August 2, 2020 at about 1600 hours, approximately 130-150 citizens gathered at and around the pavilion at Mill Hollow Park in Cottonwood Heights City. The event had been advertised on social media as “March for Justice” with the hashtags, #dancedanceforrevolution and #blacklivesmatter.
2. Cottonwood Heights Police Officers contacted members of the group who had moved from the park to the street in the adjacent neighborhood. Certain members of the group and police officers had physical confrontations, which resulted in several arrests.
3. Cottonwood Heights City requested that the Utah Attorney General’s Office conduct an audit of the incident and to consider the following points:
 - a. Did the protesters violate any laws or ordinances?
 - i. Was the event properly permitted?
 - ii. Was the use of public property/streets, lawful?
 - b. Did the police have a need or a duty to respond?
 - i. Was the police response appropriate?
 - ii. What improvements could be made?
 - c. Were the response and actions of the police commensurate with the actions of the protesters?
 - i. Were there any issues of excessive force?
 - ii. Were any officers or uninvolved civilians injured/assaulted?
 - iii. How many arrests occurred?

Other points to consider:

- What role did Councilmember Natalie Bruce have in the incident?
- What role did Police Chief Robby Russo have in the incident?

Methodology

1. Identify and review all state statutes and city and county ordinances governing events in public spaces.
2. Review applicable city and departmental policies / procedures.
3. Review police reports and conduct interviews.
4. Identify and review any communications or dialogue between police and protestors, which occurred on or prior to the August 2, 2020.
5. Review August 2, 2020 dispatch records and any other communications.
6. Obtain and review any video or audio-recorded footage of the incident, whether body-worn cameras, cell phone video, etc. (including copies of footage CHPD had taken in the course of its own investigation and those our office could develop independently from contact with citizens and or open-source searches of the Internet.)

Summary of Review

1. The review found that the city had not received any requests for assistance nor requisite permit applications, where available, for an event group of that size and purpose to assemble at Mill Hollow Park pavilion, to occupy the city streets with the pedestrian and vehicle traffic the group was observed to have done or to use loudspeakers at the park or adjacent streets that afternoon.

2. The review found that following contact with law enforcement, a small number of the event group were observed refusing repeated orders from police officers. Certain members were observed punching officers and/or shoving officers. Certain group members were observed physically blocking officers who were attempting to make arrests. A member was observed to have stolen an officer's body worn camera after it had been knocked loose from the officer's uniform.
3. The review found that police had a need or duty to respond. The police responses and actions were measured and appropriate; showed deference to the group's constitutionally protected activities. Police used appropriate discretion regarding the group's violation of certain laws and ordinances, both pre- and post-contact. Police made reasonable attempts to de-escalate tense interactions and made clear, repeated, and lawful orders before taking arrest actions.
4. A total of eight people were arrested and booked the day of the incident. One other was charged on a later date. Charges include, or investigations have considered, crimes of failure to obey lawful orders to leave the city streets, assaults against peace officers, disorderly conduct, interfering with arrest, obstruction of justice, theft and riot.
5. Officers were observed to have suffered injuries related to the assaults, obstructive and/or resistive acts of some of the arrestees.
6. Arrestees as well as some who were never apprehended/arrested were observed to have suffered minor injuries related to officers OC and or Taser deployment, baton strikes, and other physical force delivered in efforts to arrest individuals or protect other officers who worked to make arrests.
7. The review found no observed incidents of excessive force used against citizens. The uses of force in this incident were found to have been necessary and justified to stop criminal violations of law, prevent escape from and interference with lawful arrest(s) and to protect the safety of other officers.
8. The review found some (procedural) departmental policy violations.
9. Councilmember Bruce was observed in several videos as being present during the incident and is among those criminally charged.
10. The review found that Chief Russo's actions as a police chief and peace officer while on scene in this incident were generally appropriate. Chief Russo was observed interacting calmly with citizens and offering support to arresting officers, when necessary, and within his authority and assigned duties.

Observations and Suggestions

1. The city and police department have existing policies, ordinances and procedures related to the activities and enforcement demonstrated in this incident.
2. The Cottonwood Heights Police should prepare for such events, to include training, pre-event planning, intelligence gathering, targeted communication with members of citizen groups and an operations plan and information dissemination to its own members.
3. Suggested improvements include utilizing Incident Command Systems, an operations plan with post orders, report writing, pre-event communications/outreach, event communication, equipment, call-out procedures, critical incident debriefing, screening procedures, city ordinance and departmental/city policy training.
4. The Cottonwood Heights Police should consider working with neighboring jurisdictions to streamline inter-agency responses to such incidents – to cooperate for a more uniform, organized and efficient response.

5. Cottonwood Heights City may consider reviewing ordinances and permit processes regarding the use of public spaces for spontaneous or planned citizen gatherings to confirm that the process is simple, timely, efficient, widely available and accommodates protected speech activities while also preserving the peace and safety of other citizens who reside, work, or travel through the area. Consider posting (additional) signage.
6. The review found many video-recorded examples of officers who had attempted to reason with event group members, including examples of officers pleading with group members for their compliance with requests/orders to leave the streets and to continue the event on the sidewalks.
7. In general, most attendees obeyed direction from officers on scene and, overall, were observed to have been relatively peaceful throughout the incident.
8. Some individuals among the group, either those who appeared to be part of the “March for Justice” event leadership or those in their immediate fringe, seemed determined to challenge any member of the public and any police officer who made any attempt to dissuade or otherwise influence the group’s activity.